

Exhibit A

14-4407-cv

United States v. Prevezon Holdings Ltd., et al.

**UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT**

SUMMARY ORDER

RULINGS BY SUMMARY ORDER DO NOT HAVE PRECEDENTIAL EFFECT. CITATION TO A SUMMARY ORDER FILED ON OR AFTER JANUARY 1, 2007 IS PERMITTED AND IS GOVERNED BY FEDERAL RULE OF APPELLATE PROCEDURE 32.1 AND THIS COURT'S LOCAL RULE 32.1.1. WHEN CITING A SUMMARY ORDER IN A DOCUMENT FILED WITH THIS COURT, A PARTY MUST CITE EITHER THE FEDERAL APPENDIX OR AN ELECTRONIC DATABASE (WITH THE NOTATION "SUMMARY ORDER"). A PARTY CITING TO A SUMMARY ORDER MUST SERVE A COPY OF IT ON ANY PARTY NOT REPRESENTED BY COUNSEL.

1 At a stated term of the United States Court of Appeals for the Second
2 Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley
3 Square, in the City of New York, on the 8th day of July, two thousand fifteen.

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5 PRESENT: ROSEMARY S. POOLER,
6 RAYMOND J. LOHIER, JR.,
7 CHRISTOPHER F. DRONEY,
8 *Circuit Judges.*

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11 UNITED STATES OF AMERICA,

12 *Plaintiff-Appellee,*

13 v.

14 No. 14-4407-cv

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16 PREVEZON HOLDINGS LTD., PREVEZON
17 ALEXANDER, LLC, PREVEZON SOHO USA,
18 LLC, PREVEZON SEVEN USA, LLC,
19 PREVEZON PINE USA, LLC, PREVEZON 1711
20 USA, LLC, PREVEZON 1810 LLC, PREVEZON
21

1 2009 USA, LLC, PREVEZON 2011 USA, LLC,
2

3 *Defendants-Appellants.**
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5 FOR APPELLANTS: MARK A. CYMROT, Baker & Hostetler LLP,
6 Washington, D.C. (John W. Moscow, Loura
7 Alaverdi, Baker & Hostetler LLP, New York, NY,
8 Seth T. Taube, Richard B. Harper, Baker Botts
9 LLP, New York, NY, *on the brief*).

10
11 FOR APPELLEE: PAUL M. MONTELEONI (Justin Anderson, *on the*
12 *brief*), Assistant United States Attorneys, *for* Preet
13 Bharara, United States Attorney for the Southern
14 District of New York, New York, NY.

15 Appeal from orders of the United States District Court for the Southern
16 District of New York (Thomas P. Griesa, *Judge*).

17 UPON DUE CONSIDERATION, IT IS HEREBY ORDERED, ADJUDGED,
18 AND DECREED that the appeal is DISMISSED.

19 Prevezon Holdings Ltd. and affiliates (collectively "Prevezon") appeal
20 from the District Court's November 5, 2014 entry of an amended protective order
21 restricting, *inter alia*, the purchase, sale, or transfer of certain Prevezon assets.
22 We assume the parties' familiarity with the facts and record of the prior
23 proceedings, to which we refer only as necessary to explain our decision to
24 dismiss.

25 Prevezon argues that the amended protective order functions as an
26 injunction and is therefore immediately appealable pursuant to 28 U.S.C.
27 § 1292(a)(1), which provides that "the courts of appeals shall have jurisdiction of
28 appeals from . . . [i]nterlocutory orders of the district courts of the United States .

* The Clerk of the Court is respectfully directed to amend the caption of this case
as set forth above.

1 .. granting, continuing, modifying, refusing or dissolving injunctions, or refusing
 2 to dissolve or modify injunctions." But "§ 1292(a)(1) was intended to carve out
 3 only a limited exception to the final-judgment rule." Carson v. Am. Brands, Inc.,
 4 450 U.S. 79, 84 (1981). "[I]n using the word 'injunctions' in 28 U.S.C. § 1292(a)(1)
 5 Congress had in mind traditional orders in equity . . . not those issued under
 6 statutes providing for preliminary relief." Korea Shipping Corp. v. N.Y.
 7 Shipping Ass'n, 811 F.2d 124, 126 (2d Cir. 1987). Here, the amended protective
 8 order was entered pursuant to a statute, 18 U.S.C. § 983(j)(1)(A), which provides
 9 for preliminary relief in civil forfeiture actions. As such, the amended protective
 10 order is not appealable as an "injunction" within the meaning of § 1292(a)(1).

11 Alternatively, Prevezon argues that the amended protective order is
 12 appealable under an exception that is available only when preliminary relief
 13 "effectively shuts down an ongoing business." United States v. All Assets of
 14 Statewide Auto Parts, Inc., 971 F.2d 896, 901 (2d Cir. 1992); see also United States
 15 v. Victoria-21, 3 F.3d 571, 574 (2d Cir. 1993). But the amended protective order is
 16 not appealable under this "shut down" exception because Prevezon failed to
 17 show that the amended protective order effectively "shut down" its business.

18 Furthermore, Prevezon's appeal from the District Court's denial of a
 19 motion to vacate or modify a prior protective order that was entered on
 20 September 11, 2013, and superseded by the amended protective order, is moot.

21 Finally, we note that even if we had jurisdiction over this appeal, "[i]t is
 22 our settled practice to allow the district court to address arguments in the first
 23 instance." Farricielli v. Holbrook, 215 F.3d 241, 246 (2d Cir. 2000). The issues
 24 raised in this appeal are pending before the District Court in a fully briefed
 25 motion to dismiss the underlying verified complaint. Judicial economy is better
 26 served by the District Court expeditiously ruling on that motion.

1 We have considered Prevezon's remaining arguments and conclude that
2 they fail to establish jurisdiction over this appeal. For the foregoing reasons,
3 Prevezon's appeal is DISMISSED.

4 FOR THE COURT:

5 Catherine O'Hagan Wolfe, Clerk of Court